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**FISCAL IMPACT STATEMENT**

**LS 6097**

**BILL NUMBER:** SB 105

**NOTE PREPARED:** Jan 14, 2008

**BILL AMENDED:** Jan 14, 2008

**SUBJECT:** Paternity and Child Support

**FIRST AUTHOR:** Sen. Steele

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires the Department of Child Services (DCS) to: (1) implement a pilot program for establishing and enforcing paternity and child support; and (2) select counties to participate in the program.

**Effective Date:** Upon passage; January 1, 2009.

**Explanation of State Expenditures:** *Summary:* Provisions in this legislation establish a pilot program selected by the Department of Child Services (DCS) for implementation. DCS reports that \$3 M, state and federal funds, will be required for the implementation of this pilot program. The funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The federal government, through the Title IV-D program, provides a 2/3 reimbursement for state administrative expenses spent on the collection of child support. An increase in the amount spent by DCS will result in an increase in state revenue from the Title IV-D program to offset 2/3 of the cost of providing the pilot program. DCS reports that if \$3 M is spent on the pilot program, the federal government will provide \$2 M in reimbursement to the state. Additionally, if the state sees an increase in the amount of child support collected under this program, revenue from the federal government may increase as well under the Incentive Payment to States formula found in the Title IV-D program.

This program is intended to decrease the caseload of the judicial court system and increase child support collections by establishing a separate administrative process to determine paternity and child support orders. Actual caseload decreases will depend on which counties are selected for the program and how many paternity determinations and child support orders are displaced from the judicial process to the administrative process. The requirements of this bill will increase the workload of the court clerk in the respective counties selected for the pilot program to the extent that current filings with the court clerk related to paternity and support establishment increase.

DCS will request a budget projection to be included with the program proposal from each county that applies for participation in the pilot program. DCS will require that each county spend a certain percent of the funds administered to the county (currently unknown) on increasing the number of child support caseworkers needed to achieve a caseworker/caseload ratio of 1:500 in each participating county. If this program is successful in increasing the amount of child support collected in the state, according to DCS, the program may be expanded to other low-performing counties. DCS reports that the pilot program is scheduled for 1 to 2 years of implementation and, if successful, will be expanded to an additional 3 or 4 counties. Program details are described below.

#### Background Information:

Currently, several courts in the state of Indiana have established magistrates, or special hearing officers, specifically to adjudicate Title IV-D child support cases. In 2005 the Child Support Bureau (CSB) was incorporated into DCS. The CSB in Indiana has entered into cooperative agreements with 90 local county prosecutors to provide child support enforcement services in all 92 counties. During SFY 2006, the CSB aided in increasing child support collections by \$27 M, representing 6% of the total collections that year. Additionally, DCS reverted \$9.4 M to the General Fund in FY 2007.

Under the bill and the pilot project, DCS will be responsible for serving notice to both an obligee and an obligor that owes child support under an existing order, is responsible for support of a child, or an alleged biological parent under the legislation. This notice is to include (1) an appearance time, place, and date, (2) information about the inclusion of a genetic paternity test as evidence in the hearing, (3) information on the issuance and qualifying conditions of a default order for child support, (4) information that a default order filed with the court clerk will have the full force, effect, and remedies of a court order, (5) information on the obligee and child, (6) information that DCS will apply the child support guidelines to determine support obligation, (7) a statement that with the lack of income information, DCS may calculate the support amount assuming the current minimum wage, (8) DCS may issue an administrative subpoena to obtain income information and any information deemed relevant to establish a child support obligation, (9) a statement that DCS has the authority to enter a temporary order, (10) a statement of arrears if applicable, (11) a statement that foster care maintenance may also be collected if applicable, (12) a statement that interest on late child support payments may also be collected, (13) a statement of objections the obligor can make in a negotiation conference and that if an objection is not resolved, DCS will schedule an administrative hearing on the matter, (14) a statement on guidelines for the establishment of medical support, (15) a statement that DCS may review and adjust a support order given certain guidelines, (16) a statement that the obligor is responsible for notifying DCS about a change of address or employment within a set time frame, (17) instructions on how to contact DCS, (18) a statement of the obligor's rights, and (19) any other information DCS determines is necessary. Additional notifications DCS is required to provide in the legislation include a notice of final responsibility to the obligor and obligee and notice of negotiation conference rescheduling.

to both the obligor and obligee if rescheduling is requested.

The bill requires DCS to schedule a negotiation conference within 30 days of when a notice of financial responsibility is issued and serve in mediation between obligor and obligee to establish paternity (if not already established) and a child support obligation amount. DCS is required to issue an order of child support when parties agree on an obligation amount during the negotiation conference. If an agreement is not reached at the negotiation conference, DCS is required to issue an order for genetic testing of the obligor and continue the negotiation conference to allow for the receipt of the results. DCS is ordered to pay the cost for the genetic test if they order the test, but can recover the costs associated with the test from the alleged father if paternity is established or the obligee if paternity is established. Test results must indicate with 99% probability that the man is the child's biological father in order for paternity to be established.

DCS can only issue a temporary order of child support if the parties do not reach agreement at the negotiation conference and if either a paternity affidavit is executed or the genetic test results indicate 99% probability of paternity. If a temporary order is issued, DCS is required to file this information with the court clerk and request an administrative hearing with an administrative law judge under the pilot program. This temporary order of child support is to be served to both parties involved.

Default orders establishing child support are ordered if an obligor fails to (1) appear at the negotiation conference, (2) reschedule the negotiation conference, or (3) the obligor has an executed paternity affidavit or the results of the genetic test indicate 99% probability of paternity. DCS can issue a default order establishing paternity under the following circumstances; if an obligor fails to (1) appear at the negotiation conference, (2) reschedule the negotiation conference, or (3) the obligor fails to take a genetic test ordered by DCS or appear for an appointment to take the genetic test without good cause.

If DCS enters a default order, DCS, the obligor, or obligee may request an administrative hearing on the default order. Upon this request, DCS is required to provide an administrative law judge (ALJ) to hold an administrative hearing on the issue of either paternity (if applicable) or child support. The ALJ is required to provide written findings and conclusions in an order issued and these orders are to be issued to both the obligor and obligee. The ALJ is granted the authority to issue an administrative subpoena requesting income information and any other information relevant for establishing and enforcing a child support order.

An obligor and obligee is allowed to file a request for administrative review and adjustment of an already existing child support court order. DCS must notify the requesting party within 30 days of receipt of the request if the request has been denied based on IC 31-16-8-1 or the child support guidelines and advise the party of the rights to request an administrative hearing, or issue a notice of review and adjustment of child support if there are no objections. Granting a review and adjustment of child support requires the ALJ to hold an administrative hearing within 90 days after the request is received by the ALJ and that the only issue up for determination is the support amount adjustment (not paternity).

Parties can seek judicial review of (1) an order established by an ALJ within 15 days of the postmarked date of the order and (2) a default order issued when agreement is not reached during a negotiation conference. The court clerk is required to send a notice of appeal to the appellant, the appellee, DCS, and the Title IV-D prosecuting attorney in the county in which the appeal was filed. A court is required to hear this appeal as a new case.

DCS is also required to file the following with the court clerk if an order of child support is issued; (1) a copy of the order of child support, (2) proof of service of the order, (3) a copy of either an executed paternity

affidavit or a genetic test, (4) a copy of or proof of service of a temporary order if one is issued by DCS, (5) a copy of the default order or proof of service of the notice of financial responsibility or default order, if such an order is issued by DCS, and (6) if applicable, a copy of the paternity affidavit or genetic test results. Additionally, evidence submitted over the phone by an out-of-state resident named as a party in a paternity or child custody hearing under the jurisdiction of this pilot program is to be filed with the court clerk. The court clerk is required to stamp the date of receipt of orders establishing paternity or support and assign the order with a cause number.

**Explanation of State Revenues:** See *Explanation of State Expenditures* regarding federal reimbursement.

**Explanation of Local Expenditures:** Under the legislation, if a genetic test is requested after the execution of a paternity affidavit a court shall order the test to be paid either by the county general fund in which the child support proceedings take place or by the party who requested the genetic test. This may increase the expenditures of the county to the extent that genetic tests are requested after a paternity affidavit has already been executed.

**Explanation of Local Revenues:** Counties will receive funds from DCS for the implementation of the pilot program. The actual amount each county will receive is dependent on the proposal submitted by the county to DCS along with the decision made by the Department.

**State Agencies Affected:** Department of Child Services.

**Local Agencies Affected:** Counties; Local courts of jurisdiction.

**Information Sources:** Wendy Yerkes, Department of Child Services; Federal Title IV-D Program.

**Fiscal Analyst:** Bill Brumbach, 232-9559.